Dear Jim, re Kilty deposition 8/3/79

We have not discussed this and you have not indicated that we will be getting together to discuss it so I have a few suggestions.

Basic I believe is the reading we got when he alone appeared at the court of appeals for first oral argument in the new spectro case. The lying s.o.b. was worried. He now has something new to worry about and I think it best to begin by giving him a new worry, the record I gave you which means that Wiseman's testimony that Kilty handled the first six items of the 4/15/75 request is untrue. Kilty handled only the first four and nobody appears to have done anything with 5 and 6. I think this will worry him even if he is not responsible because if will make their collective lies and false swearings clear. Where you can use words like false swearing with regard to affidavits I prefer it and believe it is important.

I suggest also that you recall his extreme arrogance when Wiseman called him in to lecture/intimidate us over the Lab stuff, the time Paris Blake was included. Kilty's method then will be unsuitable for a deposition and that is fine because he was non-responsive, not honest and was trying to bulldoze us.

I think going over the records he provided and asking in each case if that is the complete reflection of the testing and records indicated should be included. Perhaps the best first one for psychological impact is the swabbing of the barrel. No, the actual request relating to test firings, etc., because that was grossly rewritten and we don't really care if he can hide behind Tyler's letter, in which there is this rewriting which means non-compliance with the request. I wrote them immediately about that. So you might even ask if he did that draft for Tyler, although it may not be. If he dumps a load on DJ it helps us and the FBI is generally willing to do that. Then the swabbing. Remember that the Lab records show that the .243 could not be fired and they swabbed that to determine recent firing but did not do that with the so-called death rifle. This is worse than ridiculous.

They fired the Ray rifle but without recovering specimens for comparison. Let him say, if he will, that Frazier's examination of the bullet remnant identified no identifying marks and then remind him o f uncontested contrary testimony in the evidentiary hearing. You might want to explore with him if not keeping a specimen did not also point toward making it difficult if not impossible to contradict Frazier. And why they did not save specimens anyway, in support of Frazier's opinion, even if he claims no support was needed. (The more a rifle is fired the more the marks left on the bullet change.)

As him about other test firings and comparisons and if specimens were preserved. He lied to us about this, saying that those listed are merely for information, as other makes of weapons that could fire the same kind of ammo. This is not only false and meaningless it is contradicted by Tyler's letter.

If he and/or Bitchy argue remember the words of No. 75-2021, determine the existence or non-existence of the information sought - and there are records not yet provided.

If they argue that might be the best point to ask him if he caused any search to be made of the records of the Office of Origin, where Frazier testified that most records are kept and where we learned in C.A. 78-0322 that the Office of Origin has relevant records not provided from FBIHQ. He didn't.

On the pictures, the three they gave us and he said are all they took, ask him if it is not common practise to have pictures with which to illuminate testimony by the expert who made the examinations - then was Dr. King's assassination less important than a run-of-the-mill crime If he denies that they take pictures to illuminate expert testimony be open in your disbelief and nobody else will believe him, especially if you ask if the FBI went off on an economy kick in this most costly crime in our history and the largest manhunt in the FBI's history.

Show him the pictures and ask him if they reflect all the areas of the specimen used in making ballistics comparisons (they don't at all) and then if they were taking pictures anyway why not include those areas? Ask him if in fact the difference in cost is not negligible, less than a roll of 35mm film is that size were used.

With regard to the windowsill ask him to look at the pictures and as an expert testify to whether it is possible to make a positive determination of the class of instrument that caused an dent. (Point out more than one and ask why Frazier restricted himself to the one marked off with chalk.)

Ask him how it would be possible to shoot downward from the inside of the room, with the mark on the inside half of the windowsill only, and not leave a hole in the outside half? (This lind of thing should also be good for Bitchy, who needs some good dose here.)

Go back to the absence of traces of firing on the part they tested and ask if that is normal. (If it is why mention it?) Is it not what should have caused other tests to be made, or another line of inquiry to determine whether or not it might have been possible for the shot to have come from another point because so many people did not see any rifle sticking out of the window.

On the spectro (and NAA?) ask if they have provided all records. Where are the spectrographic plates? Why did they not even offer them? Is what they gave me all the records made relating to the plates and examination of them? If not why not? Is it not possible than another expert can interpret the plates and reach conclusions based on them? Would my having the plates enable me to have an independent expert check on the FBI's conclusions? (The answer is yes and there is a 226 record from the Lab so stating.)

Ask him about the clothing if there is any point in testing for lead alone when bullets have so many other elements. Why for example not for copper when this is a component of the jacket and much of the jacket is missing.

(I am not suggesting that they could have determined any variation inthe comparisons of individual components and don't know that they could from the clothing because the traces would be so small, but they did make these tests and there should have been some purpose. Detecting a metal not in that bullet but possibly in other bullets, if this were possible, would indicate that a different bullet was used.)

He did not provide any medical pictures. Were they not used by the Lab and would they not expect this particular kind of bullet to mushroom or explode on striking bone? (Thatbis the design of the bullet, to do that and be humanitarian with animals.)

You might want to remember all the elaborate collection of various samples of soil for comparison with scrapings from the Mustang as a comparison in costs with what was not done and a little ridicule, did they expect to recover soil samples from the paved streets of Memphis? (What else has any real point relating to where that car was?)

If they did any NAAs, and I don't recall, where are the results, the tapes of printouts, the records of radiation and decay time, etc.? If they did not do any NAA testing, why not? Was there nothing of any value that could have been learned by any kind of NAA examination?

On the other records, like prints, did his search reflect the recovery or detection of any Ray fingerprints anywhere in that building, especially in the room rented or on the furniture allegedly moved? Were any other prints found? Was any effort made to identify them? Did he find any records indicating any identification or effort made to identify them? (We got none that I recall.)

On the prints on the rifle, were nay found where one would hold the rifle to fire it? (No.) If the rifle held prints why would you not expect to find prints where it was held to fire it? (Let Bitchy argue - we are seeling to determine the existence or non-existence of records. You might respond by asking if the absence of prints where the rifle is held would not have led an expert to provide any kind of information to any other person, like a prosecutor or people in the Department's Civil Rights Div.) The more Bitchy argues the more others will take this to mean she knows there is something to hide as long as the questions are reasonable.)

Do the same with prints from the car. Were any Ray's? Was any effort made to identify any other prints? (not from what we got and prints were found, <u>not</u> Ray's.)

You might want to recall that the FBI itself filed the conspiracy charge. Did it not thereafter look for any evidence of conspiracy or of any Ray associate?

They made an elaborate tracing of the Ray clothing, really fine and painstaking work. But there is no record of any effort to make any identification of the clothing found in the car that would not fit Ray. Ask why there are no such records and what effort was made to locate any such records. It will be hard to believe that the FBI did what it probably did, ignored this evidence that could also have been traced or

at least a prefunctory gesture made. I recall none and there was the conspiracy charge.

They traced the purchase of beer to near the DeSoto MOtel. But they have no motel registration in what was provided that had Ray on that side of Memphis, not the area he'd have been in coming from Atlanta, which is what the FBI claims he did. They have no motel registration for two days and later declined to ch eck where Ray told Huie he had been. So was there nothing in the Lab work that raised any evidentiary questions relating to the beer investigation - no information given to it, no recommendation for further any/investigation made by the Lab? (Ray was not a beer drinker.)

Ask him to justify the withholdings relating to Dunaway, whose name he even withheld, or someone else did. Was it secret that a corpse had been found in a car at the Atlanta airport? Had not the FBI or someone in it suspected a connection with the crime, like he was the actual assassin? Why else go through all of this? Then why withhold anything related to it? What was the need? Whose privacy was being protected- and how? Are these the standards of historical cases? (If Bitchy remembers that the determination was made later the records still have not been replaced and we did appeal.)

What was the need to wothhold information included within the 12/23/75 request in records provided in 1976? Why did they go to that trouble and expense? (Pistol, etc., that you used in court.)

I'm not sure but I think they withheld identifiers from the records he searched, like agents names and Lab file numbers. Why? If Frazier's name was withheld, and I do not recall with certainty, or Gallagher's, what would disclosing it reveal that was not public knowledge?

Does not each specimen and each case receive Lab identifications? Do these not permit identifications of records, including those sent to field offices? Why would any such identifications begin to be withheld in 1975 or 1976 when not withheld earlier and not withheld later?

Is it not a fact that these kinds of withholdings deter checking on and proving non-compliance? If he says no ask what other purpose can be served.

I'd delay the details of his searches for the end because I believe that however he responds to your questions they will have an effect on him and he may be less willing to run any risks.

Under where did he search and what I'd include any ticklers, in the Lab or elsewhere, any other Divisions, and you now have proof that they have their own files. And we have received from them records not in other files in this case. Any indices other than of Central Records main index? Are there not others? Why not checked?

Where did the Lab send its information? Did he check those files? This was a Civil Rights case. Did he check the Civil Rights Unit? Anywhere in that Division? Or Domestic Intelligence? Crime Records, which is DeLoach, which is indicated by other Items of

of the r equest?

Is he not aware that FBI information was appearing in the press? Did he check to see if there were records other than in the Lab that could have been provided to those who used the FBI's information, which is within Item 7 of the request?

You can go into attitudes toward me with him better than with Wiseman because the Lab has various records on me, like the porposal that I be sued for libel and tapes of my appearances.

Is not such information relevant to the 12/23/75 request? If he knew about it, why did he not provide it to the FOIA Unit?

Did he have any discussions of this nature with Bresson and Frazier in connection with our conference before filing 226?

Is it not a fact that the FBI consults its files on requesters in connection with their requests? (I have such records and there are many relating to me, including those of the Lab.)

Did not the Lab recommend against responding to my requests because the FBI does not like me? And my writing?

Is this motive for non-compliance?

Can he think of places he did not search where there might have been and be relevant records? (Divisions, Office of Origin, other field offices for example.)

You might want to go into what records the Lab keeps, including indices, because there have to be indices for locating case and specimen records. What files, what card files, what other records, are there Lab records outside the Lab offices? Where would records like the spectro plates be kept? Why were they not offered or provided?

I've done this off the top of the head forst thing this morning when I realized we had not discussed it so I can get it to you as soon as possible.

I also suggest that you recall the saying about "the harder they fall." Kilty is tought and arrogant and skilled at evasion and efforts to intimidate but his situation is a bad one - you may want to recall his prior affidavits in addition to going over what he did in 1996 - but he is worried and he has much to worry about, particularly because they all know about Beckwith. So enjoy what you do, as you should enjoy it.

Hastily,